

Remarks

Claims 1 – 21 are pending in this application. Claims 5, 6, 13, 14 and 19 are withdrawn from consideration. Claim 21 is rejected under the second paragraph of 35 USC §112; claims 1, 2, 4, 7, 8, 12 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bortolon (US 6,364,047) in view of Smythe (US 6,431,304); and claims 7-11 and 21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Salmon (US 4,683,977) in view of Bortolon. Claims 1, 20 and 21 are currently amended. Claims 2 and 3 are cancelled and their limitations included in amended claim 1 in view of the allowable subject matter in claim 3. Claims 15-18 are allowed.

Applicants Respond Seriatim to Items Numbered in the Detailed Action:

2. Claim 21 is rejected under 35 U.S.C. § 112, 2nd paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention in that there is insufficient antecedent basis for “the driving location”.

Claim 21 is currently amended to provide an antecedent for “the driving location.” Support is found in specification paragraphs [0012], [0095] and [00108].

Applicants respectfully request the Examiner to reconsider this rejection.

4. Claim 1, 2, 4, 7, 8, 12 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bortolon in view of Smythe.

Claim 1 has been amended to overcome the objection to claim 3 by rewriting dependent claims 2 and 3 as independent claim 1 to make the claim allowable.

Rejected claim 4 depends from currently amended claim 1 as suggested by the Examiner and is now believed to be allowable because of the inclusion of claim 3.

A proper rejection under 35 U.S.C. §103(a) requires that the Examiner establish *prima facie* obviousness. As recited in the MPEP, “[t]he examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of

nonobviousness.” MPEP § 2142. Three basic criteria must be met to establish *prima facie* obviousness. MPEP 2131. first, there must be some suggestions or motivation to modify a reference or combine teachings. *ID.* Second, there must be reasonable expectation of success. *ID.* Third, the prior art reference or references must teach or suggest all the claimed limitations. *ID.*

Rejected claim 7 is being submitted for reconsideration without amendment and is believed to be allowable because all of the claimed limitations are not met. Neither the pedal assembly 12, 14 of Bortolon, nor the pedal mounting system base 15 of Smythe is “in” a vehicle floorboard. Bortolon’s pedals 12, 14 are “on” a carrier plate 18 which “overlies” his floorboard 32 to limit access to the recess 36 in his floorboard (col. 2, lines 55–60); and Smythe’s slider and reactor component 25 is mounted “to” his pedal mounting base (col. 5, lines 33-35), rather than “in” his floorboard. Claims 8 and 12 depend from claim 7 and are believed to be allowable for the same reason.

Rejected claim 20 is currently amended and is now believed to be allowable. Neither Bortolon nor Smythe have a foot pedal “expandable to increase the surface area of said foot pedal.”

5. Claims 7-11 and 21 are rejected under 35 U.S.C. §103 (a) as being unpatentable over Salmon in view of Bortolon.

A proper rejection under 35 U.S.C. §103(a) requires that the Examiner establish *prima facie* obviousness. As recited in the MPEP, “[t]he examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.” MPEP § 2142. Three basic criteria must be met to establish *prima facie* obviousness. MPEP 2131. first, there must be some suggestions or motivation to modify a reference or combine teachings. *ID.* Second, there must be reasonable expectation of success. *ID.* Third, the prior art reference or references must teach or suggest all the claimed limitations. *ID.*

Claims 7-11 are being submitted for reconsideration without amendment as these claims are believed to be allowable in their present form.

The Examiner acknowledges that Salmon does not clearly show the pedal mounting in a vehicle floorboard and looks to Bortolon to show this limitation. As aforesaid Bortolon's pedals 12, 14 are "on" a carrier plate 18 which "overlies" his floorboard 32 to limit access to the recess 36" in his floorboard, whereas Applicants' by-wire foot pedal arrangement is provided as a built-in part of the vehicle by mounting a guide "in" the vehicle's floorboard.

As to claims 9-11, Salmon never mentions a "vehicle floorboard" nor different "locations" in said vehicle at which the pedal arrangement is positionable with respect to a seat. (Note the claim differentiation between "position" and "location".) And Applicants' claim 21 mainly distinguishes Salmon by requiring a foot pedal which is removably mounted "in" a vehicle floorboard, and additionally, "for reconfiguration of the driving location." This explicit language exemplifies the four driving locations illustrated in Figures 10-13 wherein, Figure 10 shows a front left side driving location; Figure 11 shows a front right driving location. Figure 12 shows a rear center driving location; and Figure 13 shows a left rear driving location alongside alternative "interface points" for a right rear driving location.

In Salmon, the "driving location" rather than "driving position" does not change and is only "shiftable longitudinally to vary the distances between the pedals and the driver" to accomodate leg length of various sized drivers, see Salmon's ABSTRACT and col. 2, lines 22 and col. 3, line 39-40.

Claim 21 has been amended to place the "by-wire pedal system" in a "vehicle having a plurality of driving locations". Neither Salmon nor Bortolon can selectively place their pedal systems in different "driving locations" rather than driving positions in the vehicle. Accordingly, the prior art references do not teach or suggest all the claimed limitations.

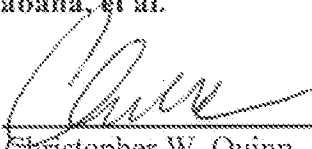
In summary, the prior art relied on by the Examiner does not mount anything "in" a floorboard; and whatever is removably mounted may change or accommodate the driving position, but not the driving "location" as claimed, see Figures 10-13, and specification paragraphs [0012], [0018] and [0093].

Conclusion

The allowance of claims 15-18 and indicated allowability of claim 3 is noted with appreciation. Applicants believe they have been fully responsive to the Office Action of May 19, 2006, and have placed the application in condition for allowance.

Respectfully submitted,

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